HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No.893 (M/S) of 2004

Harpal Singh
S/o Late Sh. Rishal Singh

Vs

State of Uttaranchal and others.

Approved for reporting

_____

~~Not Approved for Reporting~~

Date of decision 21.9.2004

Initial of Judge

HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 893 (MS) of 2004

Harpal Singh
S/o Late Sh. Rishal Singh
R/o Village Dallawala Vikas
Khand Khanpur Tehsil Laksar
District Haridwar.

..... Petitioner

Vs

State of Uttaranchal and others. ..... Respondents.

Counsel for the petitioner Sh. Siddhartha Sah.
Standing Counsel for the respondents.

Dated:- 21-9-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Siddhartha Sah learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition the petitioner has prayed for issue of a writ, order or direction in the nature of mandamus commanding the respondent no. 4to appoint any impartial officer to inquire into the genuineness of signatures of the members of the Gram Panchayat in the alleged no confidence motion presented to the respondent No.2.

Briefly stated the petitioner was elected Pradhan of Gramsabha Dallawala in the Election to the Gram Panchayat Dallawala, Vikas Khand Khanpur, District Haridwar in the elections held on 25th June 2000. The respondent No.5 who is the Up-Pradhan of the Gramsabha presented a no-confidence motion application to the respondent No.2 levelling allegations

and has prayed that the inquiry be conducted against the petitioner and action be taken against him.

Counsel for the petitioner Sh. Siddhartha Sah has submitted that on the basis of the letter of respondent No.5 and some other members, the respondent No.2 has passed an order on 14-9-2004. According to the submission of the petitioner that in order to have a no-confidence motion the resolution of no confidence should be in accordance with Panchayat Raj Act and Rule of 1947.

Counsel for the petitioner has further submitted that as will appear from the impugned order dt. 14-9-2004 that the respondent No.2 has not examined the signatures of the members who have signed the notice and as such the same has not been made in accordance with Rule 33-B of the U.P. Panchayat Rule 1947.

Rule 33-B provides the procedure for removal of Pradhan or Up-Pradhan. It reads as under:-

> *"A written notice of the intention to move a motion for removal of the Pradhan or Up-Pradhan under Section 14 of the Act shall be necessary. It shall be signed by not less than one half of the total number of members of the Gram Panchayat and shall state the reasons for moving the motion and it shall be delivered in persons by at least three members signing the notice to the District Panchayat Raj Officer. Before proceeding further on the notice, the District Panchayat Raj Officer shall satisfy himself regarding genuineness of signatures of the members signing the notice."*

Section 14 of the U.P. Panchayat Raj Act reads as under:-

> *"Removal of Pradhan(1) The Gram Sabha may at a meeting specially convened for the purpose and of which at least 15 days previous notice shall be given, remove the Pradhan by a majority of two-thirds of the members of the Gram Sabha present and voting."*

A perusal of the rule provides that it shall be signed by not less than one-half of the total number of members of the Gram Panchayat and shall state the reasons for moving the motion and it shall be delivered in person by at least three members signing the notice to the District Panchayat Raj Act.

Counsel for the petitioner has submitted that in order to justify no-confidence against the petitioner the District Panchayat Raj officer is to satisfy himself regarding genuineness of the signatures contained in the notice and only then the meeting can be convened for passing the removal of the Pradhan in accordance with Section 14 of the U.P. Panchayat Raj Act 1947.

Sh. M.C. Pal appearing as the counsel for the respondent has submitted that present writ petition is premature and the meeting of the no-confidence motion, still has to be convened on the date fixed i.e. 5th October 2004 and as such the present writ petition is not maintainable at present.

He has further submitted that so far as the formalities is contained under Rule 33-B of the U.P. Panchayat Raj Act, 1947 is concerned, the District Panchayat Raj Officer before convened meeting shall follow the procedure prescribed under Rule 33-B of the U.P. Panchayat Raj Act 1947.

Both the parties have agreed that before convening the meeting, the District Panchayat Raj Officer shall satisfy himself regarding the genuineness of signatures and notice and further as to whether the same has been signed by him not less than one-half member of the Gram Panchayat and also reasons for removing the motion against the petitioner.

The District Panchayat Raj Officer id directed to comply the order of the Prescribed Authority under Rule 33-B framed under the U.P. Panchayat Raj Act 1947 before convening the meeting, no-confidence motion against the petitioner under Section 14 of the U.P. Panchayat Raj Act 1947.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

Dated:- 21-9-2004 **(Rajesh Tandon J.)**

M.K.